



The City of Burlingame

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April 3, 2009

Mr. Bruce Wolfe
Executive Officer
San Francisco Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400
Oakland, CA 94612

Subject: Comments on the Tentative Order for the Municipal Regional Storm Water National Pollutant Discharge Elimination System Permit

Dear Mr. Wolfe:

The City of Burlingame is committed to effective storm water pollution prevention and control programs and offers the following comments on the February 11, 2009 revised draft municipal regional storm water permit

We are pleased that there have been a number of important improvements to the permit compared with the December 2007 version, however further permit revisions are essential. At the local level it is essential to have a permit that is practical, flexible, and cost-effective. In addition, it is important to us that the permit avoids shifting the San Francisco Bay Regional Water Quality Control Board's (Water Board) pollutant control and cleanup responsibility to local public agencies.

The following are some common problems in the revised draft municipal regional storm water permit:

1. A number of the permit's provisions, such as Provisions C.3 New Development and Redevelopment, C.6 Construction Site Control, and C.15 Exempted and Conditionally Exempted Discharges, remain overly prescriptive and will require additional significant staff time dealing with an unnecessary amount of information tracking and reporting unrelated to improving water quality.
2. The control actions needed to comply with some of the permit's requirements are unpredictable because they may be triggered by monitoring results, such as the provisions for water quality monitoring. An additional uncertainty is posed by having to achieve an arbitrary and potentially unrealistic trash and litter cleanup level.

3. Some of the permit's implementation and reporting dates lack flexibility and should be extended. Refer to San Mateo Countywide Water Pollution Prevention Program's (Countywide Program) requested suggestion and modifications to proposed implementation and reporting dates.

4. The costs of implementing and maintaining the provisions of the proposed permit requirements are of particular concern to the City. Due to declining revenue, in January 2009, several City positions were eliminated, including police officers and fire fighters. Additionally, the City has no source of funding for this program. The costs associated with the new permit requirements will make it very difficult for the City to comply as the City is making over \$3 million of further budget cuts due to continual decline in revenue. The budget cuts include essential public safety services such as Police and Fire personnel. The proposed permit requirements are blind to the current economic situation in the Country as a whole and the State in particular. The increased requirement would make the already bad situation worse.

In the light of the current economic reality, the City requests that these requirements be scaled back or delayed or funding be provided to meet them.

Examples of Permit Problems and Requested Changes

The following illustrates some specific examples of problems the current draft of the permit poses for the City of Burlingame and our requested changes to the permit. For a more comprehensive list of issues and requested permit changes, please refer to the San Mateo Countywide Program's List of Issues Table that was included with the Countywide Program's comment letter.

Provision C.15 Exempted and Conditionally Exempted Discharges

The deletion of individual residential car washing as a conditionally exempted type of discharge is ill considered. In 2004 the Water Board adopted the Countywide Program BMPs and Implementation Procedures for Conditionally Exempted Discharges, which includes individual residential car washing. We believe that a better approach is for the permit to recognize that individual residential car washing will occur and to promote the use of appropriate BMPs rather than to disallow these types of discharges.

Provision C.3 New Development and Redevelopment

The current permit allows projects that are deemed complete per the Permit Streamlining Act to not meet new storm water treatment and other requirements. This avoids the possible need for expensive project redesigns once a project has been deemed complete. The revised draft permit should allow applications that are deemed complete per the Permit Streamlining Act to not comply with new storm water requirements.

Any widening of an existing road with 10,000 square feet or more of impervious surface will require treatment of all of the storm water runoff from the road. The permit should be modified to only require treatment of storm water runoff from an area equivalent to the widened section and not the entire road if the widened area is less than 50 percent of the entire road's impervious surface.

Provision C.10 Trash Reduction

The permit proposes a trash cleanup (action) level for what it terms trash hotspots that should be expressed as a goal and not an inflexible mandate because of uncertainty about what levels of trash reduction are needed to protect beneficial uses and what levels are reasonably achievable.

The requirement to install full capture devices on 30% of the ABAG 2005 Retail/Wholesale Commercial Land Use area is too ambitious. There is no funding available to implement this requirement. We request that this be either delayed or scaled back for implementation.

Provision C.6 Construction Site Control

The permit proposes a requirement that each municipality implement a construction site control program at all construction sites. The permit should focus on construction sites of a sufficient size to pose a reasonable threat to water quality and are located where storm water runoff from the site flows into a municipal separate storm sewer system owned or operated by the municipality.

The list of information from each construction site inspection that must be tracked and/or reported is too prescriptive and unnecessary to protect water quality. For example, there is no value to collecting information about the "inches of rainfall since the last inspection." The list of items should be minimized as requested in the List of Issues Table submitted by the Countywide Program. This requirement essentially requires additional staffing resource to gather information and report, however it is not going to improve the water quality and therefore it should either be delayed from implementation when better economic times return or significantly scaled back.

Provisions C.11 and C.12 Mercury and PCBs Controls

The permit requires a feasibility study and diversion of dry weather and first flush storm water flows from five storm water pump stations during this permit period. This requirement should be limited to conducting a paper feasibility study. Such a feasibility study is essential to resolve whether there is sufficient capacity in the sanitary sewer collection system and at wastewater treatment plants to handle these types of diversions. In addition, a feasibility study needs to evaluate the cost-effectiveness of doing diversions.

The permit requires that municipalities ensure the cleanup of mercury and PCBs contamination located on private properties by exercising direct authority to accomplish a cleanup or by providing information to appropriate authorities. Municipalities should be held accountable for what they are able to control. On this basis, this requirement should be modified to state that municipalities will attempt to identify private properties that may be contaminating their municipal separate storm sewer system with mercury and/or PCBs and forward this information to the Water Board.

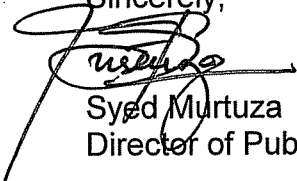
The City of Burlingame requests that you direct your staff to modify the permit based on this and other comment letters submitted by members of the Countywide

Program, the List of Issues Table included with the Countywide Program's comment letter, comments submitted by the Bay Area Storm Water Management Agencies Association, and the Santa Clara Valley Urban Runoff Pollution Prevention Program's comments.

In summary, The City of Burlingame is committed to protecting the environment. The City is dedicated to operating comprehensive storm water, wastewater, potable water distribution and other public health, safety and environmental protection programs. While the intent of the Municipal Regional Storm Water Permit is noble, the City believes that the draft permit is excessively prescriptive, cost prohibitive, and cannot be fully implemented in the time frame as currently written. In addition, the City believes that the permit should take into consideration the current economic crisis and not break the small cities back by enforcing these unfunded mandates as many cities including Burlingame are currently struggling to provide basic public health and safety services and the City cannot afford to add this work program at this time.

We appreciate your consideration of our comments, and look forward to discussing these issues further at the May 13th public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Syed Murtuza', is written over the word 'Sincerely,'.

Syed Murtuza
Director of Public Works

C: City Council
Jim Nantell, City Manager
Gus Guinan, City Attorney
Bill Meeker, Community Development Director
Matt Fabry, San Mateo County NPDES Permit Coordinator